

## New York City Provides Guidance on Impending Pay Transparency Law

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### Update:

On April 28, 2022, the New York City Council approved amendment [134-A](#). The amendment delays implementation of the law until November 1, 2022. The amendment also adds additional language to the law, including:

- Adds explicit language applying salary transparency requirement for hourly paid workers.
- Allows employers to cure first-time violations before a monetary fine is issued.
- Clarifies that the law applies to job postings for virtual positions – those that can be done in New York City, are done in the City, or by New York City employers.
- Limits private lawsuits to only current employees who sue in relation to job postings by their employers.

Read the full [press release here](#).

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### Key Takeaways:

- On January 15, 2022, New York City passed a law requiring employers with 4 or more employees to post the minimum and maximum salary for advertisements for a job, promotion or transfer opportunity.
- The requirement applies to all advertisements for a job, promotion or transfer that could be performed in New York City, even if the employer opts to have the work performed remotely outside of the City.
- The range of salary listed must be a range that the employer believes it is willing to pay for the position, and cannot be open-ended.

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On January 15, 2022, New York City passed Local Law 32 of 2022, which requires employers in New York City to post the “minimum and maximum salary” for “advertisements” in a “job, promotion or transfer opportunity.” This [three-sentence law](#) left more questions than answers, with employers expecting the City to publish more guidance before the law takes effect on May 15, 2022. Finally, on March 22, 2022, New York City provided the update that employers had been waiting for, issuing a [two-page fact sheet](#) that expounds upon key questions raised by the new law.

### Who is Covered Under the Law?

The law covers all employers who have 4 or more employees, one of which is located in New York City. Individuals who employ others count towards this four employee threshold. The law also covers postings for a variety of positions, including for full- or part-time employees, interns, domestic workers, and independent contractors.

### What Does the Law Require?

First, the law only applies to *advertisements* for a job, promotion or transfer opportunity that *could* be performed in New York City. Advertisements are not limited by medium, and the law covers all ads regardless of whether they are posted on an employer intranet,

bulletin board, newspaper, or electronically through an agency. Additionally, use of the word “could” is key, as the law applies to fully remote positions that could be performed in New York City but are performed elsewhere. However, the law does not impose any affirmative obligation on employers to advertise or notify current employees of promotional opportunities. Thus, automatic and in-line promotions are *not* covered by the law.

### **What Information Must Be Included?**

Employers must post a range of salary they in good faith believe they are willing to pay for the position being advertised. Importantly, this cannot be an open ended range (e.g. “starting at \$15/hour” or “pays no more than \$50,000”). “Salary” is defined as the wage or rate of pay, regardless of the frequency of payment. Thus compensation could be listed as an hourly wage or an annualized salary. However, “salary” does not include other forms of compensation, such as bonuses, expected tips, stock options, or fringe benefits such as health insurance, vacation time, and retirement plans.

With the new law going into effect on May 15, 2022, employers in New York City should prepare for compliance with the law, including reviewing their current job advertisements and postings. Violations of the law carry up to \$250,000 in civil penalties for noncompliance.

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